

1 Mark D. Wilson, Director
2 Certification and Licensing Division
3 Administrative Office of the Courts
4 Supreme Court of Arizona
5 1501 W. Washington St.
6 Phoenix, AZ 85007

7 **IN THE SUPREME COURT**

8 **STATE OF ARIZONA**

9 In the Matter of:

Supreme Court No. R-19-0011

10 **PETITION TO AMEND RULES 38,**
11 **39 AND ABROGATE RULE 40,**
12 **RULES OF THE SUPREME**
13 **COURT OF ARIZONA**

Proposed Rule Change Comment by
Certification and Licensing Division
Staff

14 The Certification and Licensing Division provides the administrative support
15 to the Committee on Character and Fitness and the Committee on Examinations.
16 The Division “staffs” each Committee. In this role, the Division would like to
17 provide the Supreme Court with the following comments.

18 In general, the Division wishes to express agreement with the intended
19 purpose of reorganizing and harmonizing these rules through this rule change
20 petition. The Division does wish to note substantive concerns specific to limited
practice admissions outlined in Rule 39.

The petition proposes to amend Rule 39 to allow certain individuals applying
for admission to the State Bar through the Uniform Bar Examination (UBE) score
transfer application process and the Uniform Bar Exam application process to

1 transfer application process and the Uniform Bar Exam application process to
2 practice law in Arizona pending their admission to the State Bar. Presently certain
3 applicants pursuing admission to the State Bar through the admission on motion
4 process may practice law pending their admission. The petition seeks to expand this
5 privilege to UBE score transfer applicants and Bar Exam applicants.

6 Staff believes there is a distinction between AOM or UBE transfer applicants
7 on the one hand and exam applicants on the other. The AOM and UBE applicants
8 have both satisfied the skills portion of the admission process and only need to
9 satisfy the character and fitness portion of the process. On the other hand, the exam
10 applicant must satisfy both the skill and character and fitness portions of the
11 admission process. If adopted the petition would allow certain applicants to practice
12 pending exam results and then a portion of those applicants would fail the exam. For
13 example, the February 2018 bar exam had 30 applicants sitting for the exam who
14 were licensed to practice in another jurisdiction. Of the 30 applicants only 22 passed
15 the exam. For the individuals who failed, the Court would need to determine
16 whether to revoke the practice pending privilege which may have consequences to
17 existing clients or allow continued practice when the skill portion of the process has
18 been failed.

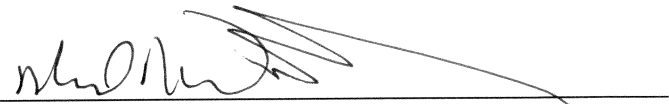
1 For these reasons, staff would recommend against expanding practice pending
2 to Bar Exam applicants. In the alternative, staff would recommend two changes to
3 the language proposed in the petition:

4 In subsection (b) *Pending Practice*, the Division would recommend the
5 following language change to (1)(C):

- 6 (C) has not previously been denied admission to practice law in Arizona,
7 has not failed to achieve a uniform bar examination score equivalent
8 to the minimum passing score requirement for Arizona within the last
9 three years, and has never been denied admission on character and
10 fitness grounds in any jurisdiction;

11 In section (D) of the same subsection of the rule, staff recommends the
12 language be modified to assure the provisions of Rule 34(f) apply to all practice
13 pending admission types (UBE Transfer and AOM) instead of being limited to
14 Admission on Motion applicants as presently drafted.

15 RESPECTFULLY SUBMITTED this 30 day of April, 2019.

16 
17 Mark D. Wilson, Director
18 Certification and Licensing Division
19 Administrative Office of the Courts
20 Arizona Supreme Court